
State of Minnesota

Office of the Attorney General

2018-2020 Affirmative Action Plan

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As required by Minnesota Statute § 3.197:
This report cost approximately \$1,500 to prepare,
including staff time, printing and mailing expenses.

Upon request, this material will be made available in an alternative format
such as large print, Braille or audio recording. Printed on recycled paper.

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Executive Summary

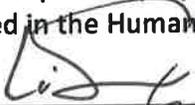
This Affirmative Action Plan meets the requirements as set forth in statute, in Administrative Rule, and by Minnesota Management and Budget, and contains affirmative action goals and timetables, as well as reasonable and sufficiently assertive hiring and retention methods for achieving these goals.

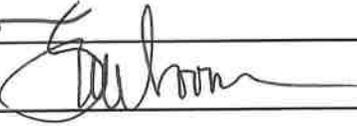
This Affirmative Action Review revealed underutilization of the following protected group(s) in the following job categories:

Table 1: Underutilization Analysis of Protected Groups

Job Categories	Women	Racial/Ethnic Minorities	Individuals with Disabilities
Officials & Administrators	None	None	None
Professionals	None	None	None
Paraprofessional	None	None	None
Office/Clerical	None	None	None

Information about how to obtain or view a copy of this Plan will be provided to every employee of the office. Our intention is to make every employee aware of the Attorney General's Office commitment to affirmative action and equal employment opportunity. The Plan will also be posted on the office's website and maintained in the Human Resources Office.

Attorney General:  Date Signed: 7/31/18

Human Resources Director:  Date Signed: 7/31/18

Organizational Profile

The Attorney General is the chief legal officer for the State of Minnesota and is the legal advisor to the Governor and all constitutional officers. The duties of the Attorney General arise from the Constitution, State statutes, and common law. Every board, commission and agency of the State receives its legal counsel and representation from the Attorney General.

Statement of Commitment

This statement reaffirms the Attorney General's Office commitment to Minnesota's statewide affirmative action efforts and providing equal employment opportunity to all employees and applicants in accordance with equal opportunity and affirmative action laws.

I affirm my personal and official support of these policies which provide that:

- No individual shall be discriminated against in the terms and conditions of employment, personnel practices, or access to and participation in programs, services, and activities, or subject to harassment on the basis of race, sex (including pregnancy), color, creed, religion, age, national origin, sexual orientation, gender expression, gender identity, disability, marital status, familial status, status with regard to public assistance, or membership or activity in a local human rights commission.
- The prohibition of discrimination on the basis of sex precludes sexual harassment, gender-based harassment, and harassment based on pregnancy.
- This office is committed to the implementation of the affirmative action policies, programs, and procedures included in this plan to ensure that employment practices are free from discrimination. Employment practices include, but are not limited to the following: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. We will provide reasonable accommodation to employees and applicants with disabilities.
- This office will continue to actively promote a program of affirmative action, wherever minorities, women, and individuals with disabilities are underrepresented in the workforce, and work to retain all qualified, talented employees, including protected group employees.
- This office will evaluate its efforts, including those of its deputies and managers, in promoting equal opportunity and achieving affirmative action objectives contained herein. In addition, this office will expect all employees to perform their job duties in a manner that promotes equal opportunity for all.

It is the office's policy to provide an employment environment free of any form of discriminatory harassment as prohibited by federal, state, and local human rights laws. I strongly encourage suggestions as to how we may improve. We strive to provide equal employment opportunities and the best possible service to all Minnesotans.

Attorney General: _____

Date Signed: _____

7/31/10

Individuals Responsible for Directing/Implementing the Affirmative Action Plan

A. Attorney General

Responsibilities

The Attorney General is responsible for establishing an affirmative action program including goals, timetables and compliance with all federal and state laws and regulations. The Attorney General, through the Commissioner of Minnesota Management & Budget (MMB), will report annually to the Governor and the Legislature the office's progress in meeting its affirmative action goals and objectives.

Duties

The duties of the Attorney General shall include, but not be limited to, the following:

- Appoint the Affirmative Action Officer or designee and include accountability for the administration of the office's Affirmative Action Plan in his or her job duties.
- Take action, if needed, on complaints of discrimination and discriminatory harassment.
- Issue a statement affirming the office's commitment to affirmative action and equal employment opportunity, and ensure that such a statement is disseminated to all employees.
- Make such decisions and changes in policies, procedures or physical accommodations as may be needed to implement effective affirmative action in the office.
- Actively promote equal employment opportunity and incorporate diversity and inclusion principles in annual business plans, strategic plans, and/or the office's mission.
- Report annually to the Governor and the Legislature, through the Commissioner of MMB, the office's progress in affirmative action.
- Notify all contractors and sub-contractors of their affirmative action responsibilities.
- Actively promote the enforcement of equal employment opportunity in affirmative and non-affirmative hiring decisions reviewed in the hiring process.
- Require all deputies and managers to support affirmative action, equal opportunity, diversity, and/or cultural responsiveness in their job duties and annual objectives.

Name of individual(s) responsible

Name: Lori Swanson

Email: attorney.general@ag.state.mn.us

Title: Attorney General

Phone: (651) 296-6196

B. Affirmative Action Officer or Designee(s)

Responsibilities

The Affirmative Action Officer is directly responsible for developing, coordinating, implementing and monitoring the office's affirmative action program.

Duties

The duties of the Affirmative Action Officer shall include, but not be limited to, the following:

- Develop and administer the office's Affirmative Action Plan.
- Develop and set office-wide affirmative action hiring goals.
- Monitor compliance and fulfill all affirmative action reporting requirements.
- Disseminate the Affirmative Action Plan to employees in the office.
- Inform the Attorney General on progress in affirmative action and equal opportunity and report potential concerns.
- Act as the affirmative action liaison between the office, MMB, and the Governor's Office.
- Determine the need for affirmative action training within the office and initiate the development of such training programs with the assistance of internal and external resources, as necessary.
- Review and recommend changes in policies, procedures, programs and physical accommodations to facilitate affirmative action and equal opportunity.
- Develop innovative programs to attract and retain protected group members in the office.
- Support and participate in the recruitment of protected class persons for employment, promotion and training opportunities.
- Manage the office's pre-hire review process.
- Review requests for non-affirmative non-justified hires in the Monitoring the Hiring process and refer unresolved issues to the Attorney General for final decision.
- Ensure deputies and managers are making affirmative efforts to recruit and retain protected group candidates and employees.
- Oversee the administration of the Americans with Disabilities Act Title I and Title II.
- Receive requests for ADA accommodations and work with appropriate deputies, managers, unions, etc. to approve or deny the request, or provide alternative accommodations.
- Maintain records of requests for reasonable accommodations.
- Fulfill all affirmative action reporting requirements by submitting standard quarterly reports.

- Ensure dissemination of all relevant affirmative action information to appropriate staff.

Accountability

The Affirmative Action Officer is accountable to the Attorney General for program impacts and for ongoing program activities and direction.

Name of individual(s) responsible

1. Name: Sue Vrooman Email: sue.vrooman@ag.state.mn.us

Title: HR Director Phone: (651) 757-1057

C. Human Resources Director or Designee(s)

Responsibilities

The Human Resources Office is responsible for ensuring equitable and uniform administration of all personnel policies. Human Resources Directors are responsible for ensuring timely responses to all Americans with Disabilities Act (ADA) requests for accommodations to remove barriers to equal employment opportunity with the office, assisting managers in human resources management activities.

Staff within Human Resources who work on affirmative action and diversity issues are accountable to the Human Resources Director.

Duties

The duties of Human Resources shall include, but not be limited to, the following:

- Maintain effective working relationships with office HR designees.
- Provide leadership to HR staff and others to ensure personnel decision-making processes adhere to equal opportunity and affirmative action principles.
- Provide guidance in the development and utilization of selection criteria to ensure they are objective, uniform, and job related.
- Assist in recruitment and retention of protected class persons and notify deputies and managers of existing disparities.
- Ensure an Affirmative Action Pre-hire Review process is implemented and followed by hiring deputies and managers by working effectively with the affirmative action officer.
- Initiate and report on specific program objectives contained in the Affirmative Action Plan.

- Ensure that the reasonable accommodation process is implemented and followed for all employees and applicants in need of reasonable accommodation.
- Assist deputies and managers in affirmative recruitment of protected group members through career and job fairs and other recruitment efforts, as well as in selection and retention of protected group members.
- Assist in the intentional creation of supported worker positions that assist in reduction of office costs by diverting supportive employment duties from higher skilled workers to a supported worker position and thus improve employee morale and retention of individuals with disabilities in integrated employment.
- Request recruitment assistance from MMB’s Statewide Director of Diversity Recruitment and Retention in the diversity recruitment and retention of protected group members.

Accountability

Human resources staff are accountable to the Human Resource Director or Attorney General. Additionally, Human Resources staff ensures that aggregate data and trends of complaints of illegal discrimination in hiring are provided and shared with the Affirmative Action Officer on a quarterly basis.

Name of individual(s) responsible

1. Name: <u>Sue Vrooman</u>	Email: <u>sue.vrooman@ag.state.mn.us</u>
Title: <u>HR Director</u>	Phone: <u>(651) 757-1057</u>
2. Name: <u>Kong Chia Moua</u>	Email: <u>kc.moua@ag.state.mn.us</u>
Title: <u>Personnel Assistant</u>	Phone: <u>(651) 757-1279</u>

D. Deputies and Managers

Responsibilities

Deputies and managers are responsible for implementing all aspects of the office’s Affirmative Action Plan and the office’s commitment to affirmative action and equal opportunity.

Duties

The duties of deputies and managers shall include, but not be limited to, the following:

- Identify problem areas and eliminate barriers that inhibit equal employment opportunity within their units and the office.

- Communicate the equal opportunity employment policy and the Affirmative Action Plan to all employees assigned to their units.
- Assist the Affirmative Action Officer in conducting periodic audits of hiring and promotion patterns to remove impediments to attaining affirmative action goals and objectives.
- Hold regular discussions with employees to ascertain that the office's equal employment opportunity policies are being followed.
- Demonstrate and practice a discrimination and harassment free work environment for all employees.

Accountability

Deputies and managers are accountable directly to their designated deputy, or to the Attorney General.

E. All Employees

Responsibilities

All employees are responsible for conducting themselves in accordance with the State of Minnesota's policy of equal employment opportunity by refraining from any actions that would subject any employee to negative treatment on the basis of that individual's race, creed, color, sex (including pregnancy), national origin, age, marital status, familial status, disability, sexual orientation, gender expression, gender identity, status with regard to public assistance, membership or activity in a local human rights commission, religion. Employees who believe they have been subjected to such discrimination or harassment are encouraged to use the office's complaint procedure.

Duties:

The duties of all employees shall include, but are not limited to, the following:

- Exhibit an attitude of respect, courtesy and cooperation towards fellow employees and the public.
- Refrain from any actions that would adversely affect a coworker on the basis of their race, creed, color, sex (including pregnancy), national origin, age, marital status, familial status, disability, sexual orientation, gender expression, gender identity, status with regard to public assistance, religion, or membership or activity in a local human rights commission.

Accountability:

Employees are accountable to their designated manager and/or deputy, and indirectly to the Attorney General. Employees are responsible for maintaining an environment free from harassment and discrimination. All employees are responsible for conducting themselves in accordance with the Affirmative Action Plan.

Communication of the Affirmative Action Plan

The following information describes the methods that the office takes to communicate the Affirmative Action Plan to employees and the general public:

Internal Methods of Communication

- A memorandum detailing the location of the Affirmative Action Plan and the responsibility to read, understand, support, and implement equal opportunity and affirmative action will be sent from the office's leadership or alternatively, the Affirmative Action Officer, to all staff.
- The office's Affirmative Action Plan is available to all employees on the agency's internal website at [Attorney General AAP](#) or in print copy to anyone who requests it. As requested, the office will make the plan available in alternative formats.
- A physical copy of the office's Affirmative Action Plan will be posted on bulletin boards on each floor and/or office location, or can be obtained from the Human Resources office at 445 Minnesota Street, Suite 900, St. Paul MN.
- Nondiscrimination and equal opportunity statements and posters are prominently displayed and available in areas frequented and accessible to employees.

External Methods of Communication

- The office's Affirmative Action Plan is available to anyone who requests it. As requested, the office will make the plan available in alternative formats.
- The office's website homepage, letterhead, publications, and all job postings, will include the statement "an equal opportunity employer."
- Nondiscrimination and equal opportunity statements and posters are prominently displayed and available in areas frequented by and accessible to members of the public. Examples of posters displayed include: Equal Employment Opportunity is the law, Employee Rights under the Fair Labor Standards Act, and the Americans with Disabilities Act Notice to the Public.
- A physical copy of the office's Affirmative Action Plan will be available to contractors, vendors, and members of the public at the following address:

Attorney General's Office
445 Minnesota Street, Suite 900
St. Paul, MN 55101

Underutilization Analysis and Affirmative Action Goals

Through the utilization analysis, the office has determined which job categories are underutilized for women, minorities, and individuals with disabilities within the office and has set the following hiring goals for the next two years (Reference Table 2).

Table 2. Underutilization Analysis and Hiring Goals for 2018-2020

The second, third, and fourth columns of this chart show the number of underutilized individuals of each group in each category at this office. The fifth, sixth, and seventh columns show the office’s hiring goals for each group in each category.

Job Categories	Underutilization - # of Individuals			Hiring Goals for 2018-2020		
	Women	Racial/Ethnic Minorities	Individuals with Disabilities	Women	Racial/Ethnic Minorities	Individuals with Disabilities
Officials/Administrators	0	0	0			
Professionals	0	0	0			
Paraprofessionals	0	0	0			
Office/Clerical	0	0	0			

Availability:

The office determined the recruitment area to be statewide for all job categories. In conducting its underutilization analysis, the office used the two-factor analysis. The office determined it was best to use this type of analysis because it gave us the ability to take both internal and external availability into consideration, and because our recruitment efforts generally focus on the statewide area. The two-factor analysis consisted of EEO job group availability for women, minorities, and individuals with disabilities from Minnesota Management and Budget’s 2010 Labor Force Availability and appointment summary data.

Underutilization Analysis worksheets are attached in the appendix. In the public plan numbers less than 10 are indicated with “<10” in accordance with Minnesota Management and Budget’s guidance on data privacy.

Women:

At the office the population of women improved in all four job categories: officials/administrators, professionals, paraprofessionals and office/clerical. The office was underutilized by seven in the

professionals category for women, set a hiring goal of seven, and met that goal over the course of the last two years. The office will continue its efforts in the recruitment and retention of women in its workforce.

Minorities:

At the office the population of minorities improved in all four job categories: officials/administrators, professionals, paraprofessionals and office/clerical. The office will continue its efforts in the recruitment and retention of minorities in its workforce.

Individuals with Disabilities:

At the office the population of individuals with disabilities improved in the office/clerical category, remained the same in the paraprofessionals category, and did not improve, in the officials/administrators and professionals categories; however, we are not underutilized in these two categories. The office will continue to recruit and retain individuals with disabilities, encourage self-identification, and take advantage of the Connect 700 program in filling vacancies.

Separation and Retention Analysis by Protected Groups

The office is committed to the retention of all employees, including members of the following protected groups: women, racial/ethnic minorities, and individuals with disabilities. The office will strive to affirmatively ensure equal employment opportunity by retaining a diverse composite of talented and qualified employees, with emphasis on under-represented individuals. To be successful, the responsibility for these retention efforts lies with all employees. The office’s retention strategy is a multi-faceted approach, guided by office management and the Human Resources Director/Affirmative Action Officer.

Table 2 Persons Responsible for Office Retention Programs/Activities

Title	Contact Information
HR Director	Sue Vrooman
	sue.vrooman@ag.state.mn.us
	(651) 757-1057
Director of Recruiting and	Marianne Ellis
Employee Development	marianne.ellis@ag.state.mn.us
	(651) 757-1222

The office will continue to analyze and review separation data for disparate impact on protected group employees. This will include reviewing non-certification trends, layoff trends, resignation trends, and discharges. The appendix will include a separation report broken down by EEO4 job category. Below is a snapshot of the office separations throughout the past two years as well as a narrative describing the separation analysis:

Table 3 Type of Separation

Type of Separation FY 2016-2018	Total Number	Average Percentage of Women	Average Percentage of Minorities	Average Percent of Individuals w/Disabilities
Resignations	59	52.5%	18.6%	5%
Retirement	22	59%	9%	18%
Termination w/o Rights	2	0%	0%	0%
Total Separations	83	53%	66%	8.4%

Women

Women represent approximately 62% of the total office workforce. The office saw a total of 83 separations from July 1, 2016, through June 30, 2018. Women accounted for approximately 53% of all separations. This is proportionately lower relative to their total office workforce representation. There was one separation during the two-year reporting period of women in the officials/administrators category, and it was due to retirement. In the professionals category, of the total number of resignations, 40%, less than half, were women. Paraprofessionals represent 33% of our total staff, and 65% are women. Of the total number of resignations in this category, approximately 57% were women, which is slightly lower than the category representation. Women account for 97% of staff in the office/clerical category. During the two year reporting period there were a total of ten separations; 50% were resignations and 50% were retirements. None of the exit data received indicated job dissatisfaction. The office has been successful in attracting and hiring women and is not underutilized in the professional women category. The office will continue to closely monitor separations in order to address any patterns or identifiable issues in the future.

Minorities

Minorities represent approximately 12% of the total office workforce. The office saw a total of 83 separations during the two-year reporting period, and minorities accounted for approximately 15.5% of all separations. This is somewhat higher than the total workforce representation. There were no separations of minorities in the officials/administrators category. There were three resignations in the professionals category, none of whom indicated job dissatisfaction in exit data, and the office hired five minority attorneys during this reporting period. There were a total of eight minority separations in the paraprofessional category over the two year reporting period. A common reason for separation in this category relates to the return to graduate school or to attend law school, which accounted for at least two separations. We affirmatively hired eight minorities in this category during this reporting period, one of which has already led to a promotion. There were a total of two separations in the office/clerical category, one of which was a retirement. The office hired seven minorities in this category during the reporting period, one of which led to a promotion. The office is not underutilized

in the minority categories of professionals, paraprofessionals, or office/clerical; however, the office will continue to monitor any separations of minorities in order to address any identifiable issues in the future.

Individuals with Disabilities

Individuals with disabilities represent approximately 12.7% of the total office workforce. The office saw a total of 83 separations during the two-year reporting period, and individuals with disabilities accounted for 7.5% of all separations. This is proportionately lower relative to their total workforce representation. Four (over 50%) of the seven total separations of individuals with disabilities were due to retirement, and one separation was of a Connect 700 employee who had the opportunity to take a promotional appointment at another agency. Exit data did not indicate job dissatisfaction, but the office will continue to monitor separations of individuals with disabilities in order to address any patterns or identifiable issues in the future.

Program Objectives, Identified Barriers, and Corrective Action to Eliminate Barriers

The office will continue to implement the provisions of this Affirmative Action Plan and meet requirements found in Minnesota Statutes Chapter 43A.191, Subdivision 2.

This section will identify ways this office has determined to eliminate barriers, provide corrective actions, and achieve affirmative action goals for underutilized protected group applicants/employees (broken down by specific job categories.) These objectives have been developed as strategic, actionable and measurable efforts the office has committed to pursuing and implementing from 2018-2020.

Program Objectives

There are no job categories that have been identified as underutilized. However, in order to ensure that the office attracts and obtains qualified candidates, enhances the image of state employment, and assists in meeting affirmative action goals to achieve a diverse workforce, we will continue to utilize various recruitment methods and strategies for the upcoming plan years.

Recruitment Action:

- The office will analyze promotion patterns to identify disparities between protected group members and non-protected group members to ensure that all employees have an equal opportunity to fill promotional vacancies. This will include reviewing criteria for promotion, clarifying and eliminating barriers, and identifying changes that may be needed in the decision making process;
- The office will identify development needs for individual staff and will provide appropriate training which could lead to promotional opportunities;

- The office will continue to actively recruit attorneys from all local law schools as well as outstate law schools, and specifically through the Minnesota Asian Pacific American Bar Association, the Minnesota Association of Black Lawyers, and the Minnesota Hispanic Bar Association;
- The office will continue to be in direct contact with offices of equity and diversity at colleges in order to attract qualified candidates, as well as network with numerous student associations and organizations to encourage protected group candidates to consider the office for employment. Examples include:
 - University of Minnesota Black Graduate and Professional Students Association
 - University of Minnesota Office of Equity and Diversity
 - St. Thomas University Native American Law Student Association
 - Mitchell Hamline Asian Pacific American Law Student Association
 - University of Wisconsin Madison Chinese Students and Scholars Association
- The office will continue to speak at meetings and attend conferences of organizations and job fairs such as the Government and Nonprofit Career Fair, the Diversity Networking and Job Fair, the Minnesota Minority Recruitment Conference, the Metro State Diversity Networking and Job Fair, the University of Minnesota Law School Recruit Event-Black Law Students Association, and the St. Thomas Law Multicultural Reception, in order to attract qualified applicants.

The office is not underutilized in any of the job categories for individuals with disabilities, however, the office will continue to:

- Communicate with employees that we collect summary data to make determinations about where we need to improve in terms of recruitment, selection, or retention of individuals with disabilities, and to encourage self-identification;
- Review job postings to ensure that qualifications are inclusive and do not pose any unnecessary barriers;
- Ensure accessible electronic documents and systems so that individuals with disabilities can contribute to the workforce and access similar information and resources as other employees;
- Utilize the Connect 700 program to allow eligible individuals with disabilities the opportunity to demonstrate their ability to perform in positions with the goal of placing those individuals into permanent probationary appointments.

Future Evaluation:

The office will continue to strive for underutilizations in each EEO-4 category by:

- Continuing to conduct exit surveys of all employees leaving the office, analyzing data for common reasons for leaving, communicating data to leadership, and developing and implementing positive change based on survey data;
- Assessing quarterly appointment summary data and comparing the data to the prior quarter in order to ensure that the office is maintaining its goals in each category;
- Routinely assessing separation data to timely address any patterns or identifiable issues.

Persons Responsible:

- Affirmative Action Officer/HR Director

Methods of Auditing, Evaluating, and Reporting Program Success

Pre-Employment Review Procedure/Monitoring the Hiring Process

The office will evaluate its selection process to determine if its requirements unnecessarily screen out a disproportionate number of women, minorities, or individuals with disabilities. The office will use the Monitoring the Hiring Process form for every classified hire to track the number of women, minorities, and individuals with disabilities in each stage of the selection process. Deputies and managers will work closely with the Affirmative Action Officer in reviewing the requirements for the position, posting the position, and interviewing and selection to ensure that equal opportunity and affirmative action is carried out.

Any time the office cannot justify a hire, it takes a missed opportunity. Office leadership will be asked to authorize the missed opportunity. The office will report the number of affirmative and non-affirmative hires as well as missed opportunities to Minnesota Management and Budget on a quarterly basis.

When candidates are invited to participate in the selection process, employees scheduling the selection process will describe the process format to the candidate (*e.g.*, interview process, testing process). All candidates will be provided information regarding the procedure to request reasonable accommodations if necessary to allow candidates with disabilities equal opportunity to participate in the selection process. Testing requirements are specifically outlined ahead of time so that individuals with a disability can determine if they may need a reasonable accommodation in advance of the selection process.

All personnel involved in the selection process will be trained and accountable for the office's commitment to equal opportunity and the affirmative action program and its implementation.

Pre-Review Procedure for Layoff Decisions

The Affirmative Action Officer, in conjunction with deputies and managers, shall be responsible for reviewing all pending layoffs to determine their effect on the office's affirmative action goals and timetables.

If it is determined that there is an adverse impact on protected groups, the office will document the reasons why the layoff is occurring, such as positions targeted for layoff, applicable personnel policies or collective bargaining agreement provisions, or other relevant reasons. The office will determine if other alternatives are available to minimize the impact on protected groups.

Other Methods of Program Evaluation

The office submits the following compliance reports to Minnesota Management and Budget as part of its efforts to evaluate the office's affirmative action program:

- Quarterly Monitoring the Hiring Process Reports;
- Biennial Affirmative Action Plan;
- Annual Americans with Disabilities Act Report;
- Annual Internal Complaint Report.

The office also evaluates the Affirmative Action Plan in the following ways:

- Monitors progress toward stated goals by job category;
- Analyzes employment activity (hires, promotions, and terminations) by job category to determine if there is disparate impact;
- Analyzes compensation program to determine if there are patterns of discrimination;
- Reviews the accessibility of online systems and websites, and ensures that reasonable accommodations can be easily requested; and
- Discusses progress with leadership on a periodic basis and makes recommendations for improvement.

Appendix

Statewide Harassment and Discrimination Prohibited Policy HR/LR Policy # 1436

OVERVIEW

Objective

To create a work environment free from harassment and discrimination based on protected class.

Policy Statement

Any form of harassment or discrimination based on protected class is strictly prohibited. Individuals who believe they have been subject to harassment/discrimination based on protected class or retaliation as described in this policy, are encouraged to file a report with an appropriate authority, as set forth in Section II of this policy.

Any form of retaliation directed against an individual who opposes or reports protected class harassment/discrimination, or who participates in any investigation concerning protected class harassment/discrimination, is strictly prohibited and will not be tolerated.

Violations of this policy by State employees will be subject to discipline, up to and including discharge. Violations of this policy by third parties will be subject to appropriate action.

For issues related to sexual harassment, please refer to HR/LR Policy #1329: Sexual Harassment Prohibited. For issues not related to sexual harassment or harassment or discrimination based on protected class, please see HR/LR Policy #1432 Respectful Workplace.

Scope

This policy applies to all employees of, and third parties who have business interactions with, the Office of the Minnesota Attorney General.

Definitions and Terms

Complainant: An individual who reports protected class harassment, discrimination, or retaliation.

Third party: Individuals who are not State employees, but who have business interactions with State employees, including, but not limited to:

- Applicants for State employment
- Vendors
- Contractors
- Volunteers

- Customers
- Business partners
- Unpaid interns
- Other individuals with whom State employees interact in the course of employees' work for the State, such as advocates, lobbyists, and representatives of individuals or entities with business with any branch of Minnesota state government

Protected class harassment or harassment based on protected class: Unwelcome conduct or communication that is based on actual or perceived membership in a protected class, including stereotypes of protected classes, that has a negative effect or is likely to have a negative effect on the complainant and/or on the workplace or public service environment.

Protected class: Protected classes under this policy are as follows:

- Race
- Color
- Creed
- Religion
- National origin
- Sex* (includes pregnancy and pregnancy-related conditions)
- Marital status
- Familial status
- Status with regard to public assistance
- Membership or activity in a local human rights commission
- Disability
- Age
- Sexual orientation
- Gender identity
- Gender expression
- For employees, genetic information

*See HR/LR Policy #1329 Sexual Harassment Prohibited for specific information on harassment based on unwelcome conduct or communication of a sexual nature.

Age: The prohibition against harassment and discrimination based on age prohibits such conduct based on a person's age if the person is over the age of 18.

Marital status: Whether a person is single, married, remarried, divorced, separated, or a surviving spouse, and includes protection against harassment or discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

Familial status: The condition of one or more minors living with their parent(s) or legal guardian, or the designee of the parent(s) or guardian with the written permission of the parent(s) or guardian. This also protects those who are pregnant or those who are in the process of securing legal custody of a minor from being harassed or discriminated against on that basis.

Disability: A physical, sensory, or mental impairment which materially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment.

Genetic information: Includes information about an individual's or their family members' genetic tests, family medical history, an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services or information with respect to the individual or their family member.

Public service environment: A location where public service is being provided.

Membership or activity in a local human rights commission: Participation in an agency of a city, county, or group of counties that has the purpose of dealing with discrimination on the basis of race, color, creed, religion, national origin, sex, age, disability, marital status, status with regard to public assistance, sexual orientation, or familial status, as defined by Minn. Stat. § 363A.03, subd. 23.

GENERAL STANDARDS AND EXPECTATIONS

Prohibition of Protected Class Harassment and Discrimination

Harassment of or discrimination against any employee or third party based on protected class in the workplace or public service environment, or which affects the workplace or public service environment, is strictly prohibited. Harassment of or discrimination against an individual because of their relationship or association with members of a protected class is also strictly prohibited.

Protected class harassment/discrimination may take different forms including verbal, nonverbal, or physical conduct or communication. Conduct based on protected class may violate this policy even if it is not intended to be harassing. Protected class harassment/discrimination under this policy includes, but is not limited to, the following behavior when it is based on actual or perceived membership in a protected class, including stereotypes of protected classes:

- Offensive jokes, slurs, derogatory remarks, epithets, name-calling, ridicule or mockery, insults or put-downs
- Display or use of offensive objects, drawings, pictures, or gestures
- Physical assaults or threats
- Inappropriate touching of body, clothing, or personal property
- Following, stalking, intimidation
- Malicious interference with work performance
- Implicit or explicit preferential treatment or promises of preferential treatment for submitting to the conduct or communication
- Implicit or explicit negative treatment or threats of negative treatment for refusing to submit to the conduct or communication
- Discriminatory conduct based on an individual's actual or perceived protected class that segregates, separates, limits or restricts the individual from employment opportunities,

including, but not limited to, hiring, promotion, compensation, disciplinary action, assignment of job duties, benefits or privileges of employment

Employee and Third Party Responsibilities and Complaint Procedure

Harassment or discrimination based on protected class will not be tolerated. All employees and third parties are expected to comply with this policy.

Employees and third parties are strongly encouraged to report all incidents of protected class harassment or discrimination, whether the individual is the recipient of the behavior, an observer, or is otherwise aware of the behavior. Individuals are encouraged to report incidents as soon as possible after the incident occurs. Individuals may report to any of the following:

1. Any of the office's deputies or managers
2. The office's Affirmative Action Officer
3. The office's human resources office
4. Office management, up to and including the Attorney General

If the report concerns an office head, the complainant may contact Minnesota Management and Budget, Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion.

To ensure the prompt and thorough investigation of a report, the complainant may be asked to provide information in writing, which may include, but is not limited to:

1. The name, department, and position of the person(s) allegedly causing the harassment/discrimination
2. A description of the incident(s), including the date(s), location(s), and the identity of any witnesses
3. The name(s) of other individuals who may have been subject to similar harassment/discrimination
4. What, if any, steps have been taken to stop the harassment/discrimination
5. Any other information the complainant believes to be relevant

Individuals are encouraged to use the office's internal complaint procedure, but may also choose to file a complaint externally with the Equal Employment Opportunity Commission (EEOC), the Minnesota Department of Human Rights (MDHR), or other legal channels.

Manager Responsibility

Managers must:

1. Model appropriate behavior
2. Treat all reports of protected class harassment/discrimination seriously
3. Appropriately respond to a report or problem when they receive a report of protected class harassment/discrimination, or when they are otherwise aware a problem exists
4. Immediately report all allegations or incidents of protected class harassment/discrimination to human resources or the agency Affirmative Action Officer

5. Comply with the office's complaint and investigation procedures and/or the agency's Affirmative Action Plan

Human Resources Responsibilities

Human resources must:

1. Model appropriate behavior
2. Distribute the Harassment and Discrimination Prohibited Policy to all employees, through a method whereby receipt can be verified
3. Treat all reports of protected class harassment/discrimination seriously
4. Comply with the office's complaint and investigation procedures and/or the office's Affirmative Action Plan

Affirmative Action Officer or Designees Responsibilities

Affirmative Action Officer/designee must:

1. Model appropriate behavior
2. Treat all reports of protected class harassment/discrimination seriously
3. Comply with the office's complaint and investigation procedures and/or the office's Affirmative Action Plan
4. Keep the office apprised of changes and developments in the law and policy

Investigation and Discipline

The office will take seriously all reports of protected class harassment/discrimination or retaliation, and will take prompt and appropriate action. When conducting an investigation, supervisors, human resources, and Affirmative Action Officers must follow the office's investigation procedures.

The office will take prompt and appropriate corrective action when there is a violation of this policy.

Employees who are found to have engaged in conduct in violation of this policy will be subject to disciplinary action, up to and including discharge.

Third parties who are found to have engaged in conduct in violation of this policy will be subject to appropriate action. Appropriate action for policy violations by third parties will depend on the facts and circumstances, including the relationship between the third party and the office. The office may contact MMB Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion for assistance in determining appropriate action for third parties. MMB may refer the office to the appropriate resources, which may include, for example, the Department of Administration with respect to policy violations by vendors or contractors.

Employees who knowingly file a false report of protected class harassment/discrimination or retaliation will be subject to disciplinary action, up to and including discharge.

Non-Retaliation

Retaliation against any person who opposes protected class harassment/discrimination, who reports protected class harassment/discrimination, or who participates in an investigation of such reports, is strictly prohibited. Retaliation also includes conduct or communication designed to prevent a person from opposing or reporting protected class harassment/discrimination or participating in an investigation. Retaliation will not be tolerated. Any employee who is found to have engaged in retaliation in violation of this policy will be subject to discipline, up to and including discharge. Third parties who are found to have engaged in retaliation in violation of this policy will be subject to appropriate action.

Statewide Sexual Harassment Prohibited Policy

Statewide HR/LR Policy #1329: Sexual Harassment Prohibited

Objective

To create a work environment free from sexual harassment of any kind.

Policy Statement

Sexual harassment in any form is strictly prohibited. Individuals who believe they have been subject to sexual harassment are encouraged to file a complaint with an appropriate authority. Any form of retaliation directed against an individual who complains about sexual harassment or who participates in any investigation concerning sexual harassment is strictly prohibited and will not be tolerated. Violations of this policy by State employees will be subject to discipline, up to and including discharge. Violations of this policy by third parties will be subject to appropriate action.

Scope

This policy applies to all employees of, and third parties who have business interactions with, the Office of the Minnesota Attorney General.

Definitions and Key Terms

Complainant

An individual who complains about sexual harassment or retaliation.

Public service environment

A location that is not the workplace where public service is being provided.

Sexual harassment

Unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal, written, or physical conduct or communication of a sexual nature.

Third party

Individuals who are not State employees but who have business interactions with State employees, including, but not limited to:

- Applicants for State employment
- Vendors
- Contractors
- Volunteers

- Customers
- Business Partners

Exclusions

N/A

Statutory References

42 U.S.C. § 2000e, et al.

M.S. Ch. 363A

M.S. Ch. 43A

Minn. Rule 3905.0500

GENERAL STANDARDS AND EXPECTATIONS

I. Prohibition of Sexual Harassment

Sexual harassment of any employee or third party in the workplace or public service environment, or which affects the workplace or public service environment, is strictly prohibited.

Sexual harassment under this policy is any conduct or communication of a sexual nature which is unwelcome. The victim, as well as the harasser, can be of any gender. The victim does not have to be of the opposite sex as the harasser. Sexual harassment includes, but is not limited to:

- Unwelcome sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, degrading sexual remarks, threats;
- Unwelcome sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, obscene gestures;
- Unwelcome physical contact, such as rape, sexual assault, molestation, or attempts to commit these assaults; unwelcome touching, pinching, or brushing of or by the body;
- Preferential treatment or promises of preferential treatment for submitting to sexual conduct, including soliciting or attempting to solicit an individual to submit to sexual activity for compensation or reward;
- Negative treatment or threats of negative treatment for refusing to submit to sexual conduct;
- Subjecting, or threatening to subject, an individual to unwelcome sexual attention or conduct.

II. Employee and Third Party Responsibilities and Complaint Procedure

Sexual harassment will not be tolerated. All employees and third parties are expected to comply with this policy.

Employees and third parties are encouraged to report all incidents of sexual harassment. Individuals are encouraged to report incidents of sexual harassment as soon as possible after the incident occurs. Individuals may make a complaint of sexual harassment with:

- An office deputy or manager;
- The office's Affirmative Action Officer;
- The office's human resources officer;
- Office management, up to and including the Attorney General.

If the complaint concerns an office head, the complainant may contact Minnesota Management & Budget, Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion.

To ensure the prompt and thorough investigation of a complaint of sexual harassment, the complainant may be asked to provide information in writing, which may include, but is not limited to:

- The name, department, and position of the person(s) allegedly causing the harassment;
- A description of the incident(s), including the date(s), location(s), and the presence of any witnesses;
- The name(s) of other individuals who may have been subject to similar harassment;
- What, if any, steps have been taken to stop the harassment;
- Any other information the complainant believes to be relevant.

Individuals are encouraged to use the office's internal complaint procedure, but may also choose to file a complaint externally with the Equal Employment Opportunity Commission (EEOC) and/or the Minnesota Department of Human Rights (MDHR) or other legal channels.

III. Deputy and Manager Responsibility

Deputies and Managers are responsible for the following:

- Modeling appropriate behavior;
- Treating all complaints of sexual harassment seriously, regardless of the individuals or behaviors involved;
- When a complaint of sexual harassment has been made to the deputy or manager, or when the deputy or manager is otherwise aware that a problem exists, the deputy or manager must appropriately respond to the complaint or problem;
- Immediately reporting all allegations or incidents of sexual harassment to human resources or the office Affirmative Action Officer so that prompt and appropriate action can be taken;
- Complying with the office's complaint and investigation procedures and/or Affirmative Action Plan to ensure prompt and appropriate action in response to complaints of sexual harassment.

Deputies or managers who knowingly participate in, allow, or tolerate sexual harassment or retaliation are in violation of this policy and are subject to discipline, up to and including discharge.

IV. Human Resources Responsibilities

Human resources offices are responsible for the following:

- Modeling appropriate behavior;
- Distributing the sexual harassment policy to all employees, through a method whereby receipt can be verified;
- Treating all complaints of sexual harassment seriously, regardless of the individual(s) or behaviors involved;
- Complying with the office's complaint and investigation procedures and/or their Affirmative Action Plan to ensure prompt and appropriate action in response to complaints of sexual harassment.

V. Affirmative Action Officer or Designee Responsibilities

Affirmative Action Officers/designees are responsible for the following:

- Modeling appropriate behavior;
- Treating all complaints of sexual harassment seriously, regardless of the individual(s) or behaviors involved;
- Complying with the office's complaint and investigation procedures to ensure the prompt and appropriate action in response to complaints of sexual harassment;
- Keeping the office apprised of changes and developments in the law.

VI. Investigation and Discipline

All complaints of sexual harassment will be taken seriously, and prompt and appropriate action taken. When conducting an investigation, supervisors, human resources, and Affirmative Action Officers must follow their office's investigation procedures. For a sample investigation procedure, please review the documents available on the [MMB Equal Opportunity, Diversity, and Inclusion website](#), including:

- Agency AAP Planning Guide for agencies with more than 25 employees
- Agency AAP Planning Guide for agencies with 25 or fewer employees

Timely and appropriate corrective action will be taken when there is a violation of this policy. Employees who are found to have engaged in sexual harassment in violation of this policy will be subject to disciplinary action, up to and including discharge.

Third parties who are found to have engaged in sexual harassment in violation of this policy will be subject to appropriate action. Appropriate action for policy violations by third parties will depend on the facts and circumstances, including the relationship between the third party and the office. The

office may contact MMB Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion for assistance in determining appropriate action for third parties. MMB may refer the office to the appropriate resources, which may include, for example, the Department of Administration with respect to policy violations by vendors or contractors.

Employees who knowingly file a false complaint of sexual harassment will be subject to disciplinary action, up to and including discharge.

VII. Non-Retaliation

Retaliation against any person who reports sexual harassment or participates in an investigation of such reports is strictly prohibited. Retaliation will not be tolerated. Any employee who is found to have engaged in retaliation in violation of this policy will be subject to discipline, up to and including discharge. Third parties who are found to have engaged in retaliation in violation of this policy will be subject to appropriate action.

RESPONSIBILITIES

The Office is responsible for:

- Adopting this policy.
- Disseminating this policy to employees through a method whereby receipt can be verified.
- Posting this policy in a manner that can be accessed by third parties.
- Including this policy in their Affirmative Action Plan.
- Implementing this policy, including developing:
 - An educational program;
 - A process for reporting complaints; and
 - A procedure under which complaints will be addressed promptly.
 - Enforcing this policy.

MMB is responsible for:

- Ensuring that state agencies carry out their responsibilities under this policy and updating this policy as necessary.

FORMS AND SUPPLEMENTS

See acknowledgement form, below, which can be used to verify receipt by office employees.

Acknowledgement

I acknowledge that I have received and read the policy, Sexual Harassment Prohibited, and accompanying complaint procedure. I understand that sexual harassment and retaliation are strictly prohibited. I understand that if I engage in conduct in violation of the policy toward any State employee, applicant for employment, vendor, contractor, volunteer, customer, or business partner, I will be subject to disciplinary action, up to and including discharge.

I understand that if I believe that I have been subjected to sexually harassing or retaliatory conduct as defined by this policy by any State employee, applicant for employment, vendor, contractor, volunteer, customer or business partner, I am encouraged to report that behavior. I understand that I can make a report to deputies, managers, human resources officer, up to and including the Attorney General. I understand that if my complaint concerns the Attorney General, I may contact Minnesota Management & Budget.

Signed: _____ Date: _____

Employee Name: _____

Complaint Procedure for Processing Complaints Under the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy

COMPLAINT PROCEDURE FOR INTERNAL COMPLAINTS

The Attorney General's Office is committed to granting all employees, as well as applicants, a right to a workplace free of discrimination or harassment. The purpose of these procedures is to implement the office's Affirmative Action Plan and discrimination and harassment policies as they relate to employment matters. They are not intended to be applicable to complaints of general harassment covered by other office policies.

A. Employee Responsibilities and Complaint Procedure.

Employees are encouraged to report all incidents of discrimination or harassment as soon as possible after the incident occurs. Reporting discrimination or harassment can be a difficult step to take. Reporting is strongly encouraged and essential in order for the office to take appropriate corrective action and to achieve the goals of its policies. These procedures seek to make reporting as easy as possible.

If an employee or applicant feels he/she is being subjected to discrimination or harassment and desires to report the matter, the individual can report a complaint and discuss the matter with any of the following:

- Any manager (office manager, division manager, deputy attorney general, etc.) at the staff member's location or any other location, or
- The office's Affirmative Action Officer.

A person receiving the complaint must report the matter in writing to the Affirmative Action Officer and the deputy attorney general of the person who is the subject of the complaint, if any. Persons receiving the complaint shall take any appropriate action within the scope of their authority; however, no disciplinary action shall be taken before completion of an investigation.

The employee may report a complaint orally or in writing and may use the complaint form that is attached to these procedures. If a complaint is made orally, persons receiving the complaint shall give the staff member the Tennessee Warning that is contained on the complaint form prior to making a request for information.

To ensure the prompt and thorough investigation of a complaint of discrimination or harassment, the complainant may be asked to provide information in writing, which may include, but is not limited to:

1. The name, department, and position of the person(s) allegedly causing the harassment;

2. A description of the incident(s), including the date(s), location(s), and the presence of any witnesses;
3. The name(s) of any other individuals who may have been subject to similar harassment;
4. What, if any, steps have been taken to stop the harassment;
5. Any other information the complainant believes to be relevant.

Individuals are encouraged to use the office's internal complaint procedure, but may also choose to file a complaint externally with the Equal Employment Opportunity Commission (EEOC) and/or the Minnesota Department of Human Rights or other legal channels.

B. Manager Responsibilities.

All managers, including deputy attorneys general, are responsible for the following:

1. Modeling appropriate behavior;
2. Treating all complaints of discrimination or harassment seriously, regardless of the individuals or behaviors involved;
3. When a complaint of discrimination or harassment is made to the manager, or when the manager is otherwise aware that a problem exists, the manager must appropriately respond to the complaint or problem;
4. Immediately report all allegations or incidents of discrimination or harassment to the Director of Human Resources/Affirmative Action Officer, so that prompt and appropriate action can be taken;
5. Referring a complaint to his or her manager if the complaint implicates the manager or presents a conflict;
6. Processing all complaints in a manner consistent with the requirements of the Minnesota Rules of Professional Conduct and these procedures. Persons receiving the complaint shall take any appropriate action within the scope of their authority; however, no disciplinary action shall be taken before completion of an investigation.
7. Complying with the office's complaint and investigation procedures and Affirmative Action Plan to ensure prompt and appropriate action in response to complaints of discrimination and harassment.

Managers who knowingly participate in, allow, or tolerate discrimination or harassment or retaliation are in violation of the policies and are subject to discipline, up to and including discharge.

A manager or deputy attorney general has the authority to receive and discuss the complaint and render disciplinary or remedial action after an investigation is conducted by the Affirmative Action Officer and after consultation with the Attorney General.

The Affirmative Action Officer has the authority to receive and discuss the complaint, conduct a preliminary inquiry, and, after approval of the Attorney General, may take remedial measures including, but not limited to, an investigatory suspension or temporary reassignment pending the outcome of the preliminary inquiry or investigation.

C. Human Resources and Affirmative Action Officer or Designee Responsibilities.

1. Modeling appropriate behavior;
2. Distributing the discrimination and harassment policies and complaint procedure to all employees, through a method whereby receipt can be verified;
3. Treating all complaints of discrimination or harassment seriously, regardless of the individuals or behaviors involved;
4. Complying with the office's complaint and investigation procedures and Affirmative Action Plan to ensure prompt and appropriate action in response to complaints of discrimination and harassment;
5. Keeping the office apprised of changes and developments in the law.

D. Inquiry/Investigation.

All complaints of discrimination and harassment will be taken seriously, and prompt and appropriate action taken when there is a violation of the policies. Employees who are found to have engaged in discrimination or harassment in violation of these policies will be subject to disciplinary action, up to and including discharge.

1. Preliminary Inquiry

The Affirmative Action Officer, in consultation with the manager of the subject of the complaint shall, if possible, initiate a preliminary inquiry within three (3) business days of receipt of the written complaint. If the preliminary inquiry establishes that a reasonable basis for the complainant's concern exists, the Affirmative Action Officer shall take appropriate intervening action to deal with the situation until such time as the complaint is investigated fully, there is a finding, and corrective action, if required, is implemented. If the Affirmative Action Officer determines that the complaint is meritless, it shall be so noted on the complaint and no further action shall be required. A complaint shall be deemed meritless either because it cannot be substantiated or it falls outside the scope of the policies.

2. Investigation

If an investigation is required, the Affirmative Action Officer shall initiate it, if possible, within ten (10) business days of receipt of the complaint. The investigation shall include an interview with the subject of the complaint. At the time of the interview, the Affirmative Action Officer shall give a summary of the complaint to the subject of the complaint. The complaint summary shall include the substance of the allegation(s) contained in the complaint. If the matter is resolved informally prior to the completion of an investigation, the Affirmative Action Officer need not issue a written report. However, if the Affirmative Action Officer determines that the complaint is meritless, the Affirmative Action Officer shall prepare a written report indicating that the complaint is meritless.

If the subject of the complaint is a member of a bargaining unit, the Affirmative Action Officer shall notify the member's exclusive representative when a complaint has been filed and the subsequent procedure shall be open to the exclusive representative's participation if requested by the member.

Upon completion of the full investigation, the Affirmative Action Officer shall prepare a written report to the Attorney General. A copy shall be sent to the manager and deputy attorney general of the subject of the complaint. If the investigation will take more than ten (10) days, the Affirmative Action Officer will inform the complaining employee and the subject of the complaint of when the Officer expects to complete the investigation. The report shall include recommendations for designated actions to be taken to remedy the complaint. In making the recommendations, the Affirmative Action Officer shall consult with the manager of the subject of the complaint.

If possible, within ten (10) business days of receiving the report the Attorney General shall take final action to remedy the complaint. If disciplinary or remedial action is taken pursuant to this procedure, it may consist of, but need not be limited to, training, an oral or written reprimand, suspension, or termination. The subject of the complaint shall be provided a written summary of the report and notice of the proposed action.

The Affirmative Action Officer shall notify the complainant when final action has been taken, subject to the terms of the Minnesota Government Data Practices Act. A final written answer will be provided within 60 days after the complaint is filed. The complainant will be notified in writing should extenuating circumstances prevent completion of the investigation within 60 days.

Employees who knowingly file a false complaint of harassment may be subject to disciplinary action, up to and including discharge.

COMPLAINT PROCEDURE FOR COMPLAINTS BY STAFF MEMBERS AGAINST THIRD PARTIES

This procedure applies to situations in which an employee has a concern about alleged behavior by third parties which, if it occurred in an employment context, would be discrimination or harassment, as described in the policies. The employee is encouraged to take immediate and appropriate action to address the situation.

1. An employee who has a concern about discriminatory or harassing conduct by a third party may report the concern to any manager or to a deputy attorney general.
2. The manager or deputy attorney general shall immediately report it to the Affirmative Action Officer. The Affirmative Action Officer, in consultation with the employee and his/her manager, will determine what further action will be taken, if any. However, if the matter merits further attention, the Affirmative Action Officer may within ten (10) business days, if practicable, determine the appropriate response to the concern. An appropriate response for policy violations by a third party will depend on the facts and circumstances, including the relationship between the third party and the office.

If action cannot be taken within ten (10) business days, the Affirmative Action Officer shall inform the employee of the amount of time necessary to take action.

3. In all cases the Affirmative Action Officer shall inform the affected employee of the action in response to the concern.
4. The Attorney General's Office shall maintain the privacy of all records to the extent required by the Minnesota Government Data Practices Act. All complaints (and related material) shall be retained in accordance with applicable office record retention policies and, when applicable, Minnesota Management and Budget's statewide human resource records retention schedule.

Employees who knowingly file a false complaint of harassment may be subject to disciplinary action, up to and including discharge.

COMPLAINT PROCEDURE FOR COMPLAINTS AGAINST STAFF MEMBERS FROM THIRD PARTIES

Discrimination against, or harassment of a third party in the workplace or public service environment, or which affects the workplace or public service environment, is strictly prohibited. This procedure applies to such situations. Complaints shall be handled as outlined in this procedure.

1. Processing the Complaint
 - a. Any employee who receives a complaint alleging that another employee has discriminated against or harassed a third party in violation of the policies shall refer the matter to the employee's manager and shall provide the manager with the name and contact information of the person making the complaint, and the identity of the subject employee. No complaint shall be processed under this procedure if the complaining party refuses to divulge his/her identity and how he/she can be contacted to verify the nature of the complaint. If the complaint implicates the manager or presents a conflict of interest, then that manager shall refer the complaint to his or her deputy attorney general who will process the complaint pursuant to the procedures outlined in this procedure. All complaints shall be processed in a manner consistent with the requirements of the Minnesota Rules of Professional Conduct.

- b. The manager shall contact the complaining party and request that the complaining party make a written statement outlining the basis for the complaint. If the complaining party is unwilling to submit a written complaint, the manager shall make a written account of the complaint based on his/her conversation with the complainant. If the manager makes a written account of the complaint, a copy of the written account shall be sent to the complaining party with instructions that the complaining party should verify the accuracy of the account and return a signed copy of the account to the manager. Failure of a complainant to verify the accuracy of the written complaint within a reasonable time period may be a factor considered by the manager in making a recommendation as to whether to proceed with the complaint pursuant to paragraph 1.d of these procedures.
- c. The manager shall advise the subject employee of the substance of the allegations contained in the complaint and shall discuss the complaint with the subject employee. The manager may also have further discussions with the complaining party regarding the complaint. The subject employee shall be given an opportunity to respond to the complaint.

If the subject employee is a member of a bargaining unit, the Affirmative Action Officer or manager shall notify the subject employee's exclusive representative that a complaint has been filed and the subsequent procedure shall be open to the exclusive representative's participation if requested by the subject employee.

- d. After meeting or conferring with the complaining party and the subject employee, the manager shall make a written report within fifteen (15) business days after receiving the complaint. This report shall include the identity of the subject employee, the identity of the complaining party, the nature of the complaint, and the manager's recommendation as to how the complaint should be handled. A manager shall recommend either that no further action be taken or recommend that the matter be subject to a preliminary inquiry. If the manager has consulted with the Affirmative Action Officer, an investigation may be recommended rather than a preliminary inquiry. However, a manager shall not recommend that the matter shall be subject to further investigation until he/she has discussed the complaint with the subject employee. The manager's recommendation shall contain the subject employee's response to the complaint. A copy of the report shall be provided to the subject employee, the Affirmative Action Officer and the subject employee's deputy attorney general.

The subject employee shall have ten (10) business days after receipt of the report in which to provide a written response to the report before any investigation commences.

2. Inquiry/Investigation

a. Preliminary Inquiry

The Affirmative Action Officer, in consultation with the manager of the subject employee, shall conduct a preliminary inquiry within twelve (12) business days of receipt of the written response. If this preliminary inquiry establishes that a reasonable basis for the complaint exists,

an investigation will be conducted. If the Affirmative Action Officer determines that the complaint is meritless, it shall be so noted on the complaint and the report. A complaint shall be deemed meritless either because it cannot be substantiated or it falls outside the scope of the policies.

b. Investigation

If possible, within ten (10) business days after a determination to conduct an investigation the Affirmative Action Officer shall conduct an investigation that shall include an interview with the subject of the complaint. If the investigation will take more than ten (10) business days, the Affirmative Action Officer will inform the subject of the complaint when the Officer expects to complete the investigation. Upon completion of the investigation the Affirmative Action Officer shall prepare and submit a report to the decision maker designated by the office together with any other related materials. A copy shall be sent to the subject employee's manager and deputy attorney general. The report shall include recommendations for designated actions to be taken to remedy the complaint. In making the recommendations, the Affirmative Action Officer shall consult with the appropriate manager.

If possible, within ten (10) business days of receiving the report the decision maker shall take final action to remedy the complaint. If disciplinary or remedial action is warranted, it may consist of, but need not be limited to, training, an oral or written reprimand, suspension, or termination. The subject of the complaint shall be provided a written summary of the report and notice of the proposed action.

The Affirmative Action Officer shall notify the complainant when final action has been taken, subject to the terms of the Minnesota Government Data Practices Act.

E. Records Retention

The Attorney General's Office shall maintain the privacy of all records to the extent required by the Minnesota Government Data Practices Act. All complaints (and related material) shall be retained in accordance with applicable Office record retention policies and, when applicable, Minnesota Management and Budget's statewide human resource records retention schedule.

COMPLAINT OF DISCRIMINATION/HARASSMENT

The information on this form is collected so that the Attorney General's Office may review your complaint under the office's discrimination and harassment policies and to administer those policies and monitor compliance. You are not legally required to provide this information, but the Attorney General's Office may not be able to review your complaint if you do not provide sufficient information. The information collected is private personnel data on you. It will, however, be disclosed, as needed, within the office to the Affirmative Action Officer, appropriate managers or deputies, and the Attorney General. During any investigation the data remains personnel data on you, but it may also be disclosed subject to the limitations imposed by Minn. Stat. § 13.43, subd. 8, to any individual who may have information on the matter, the employee against whom or on whose behalf the complaint is made or to the Minnesota Department of Human Rights or the Equal Employment Opportunity Commission.

NAME/TITLE: _____

ADDRESS: _____

TELEPHONE: _____

Who is (are) the subject(s) of your complaint? _____

NAME(S) _____

TYPE OF DISCRIMINATION OR HARASSMENT: (check all that apply)

- | | | |
|--|---|---|
| <input type="checkbox"/> Race | <input type="checkbox"/> Marital Status | <input type="checkbox"/> Disability |
| <input type="checkbox"/> Sex | <input type="checkbox"/> Gender Identity | <input type="checkbox"/> Gender Expression |
| <input type="checkbox"/> Familial Status | <input type="checkbox"/> National Origin | <input type="checkbox"/> Religion |
| <input type="checkbox"/> Age | <input type="checkbox"/> Creed | <input type="checkbox"/> Genetic Information |
| <input type="checkbox"/> Color | <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Sexual Harassment | <input type="checkbox"/> Status with Regard to
Public Assistance | <input type="checkbox"/> Membership or Activity in a
Local Human Rights Commission |

Other (Specify) _____

When did the incident occur? Date: _____ Time: _____

Place: _____

Describe the incident in detail. If you are reporting an incident on behalf of another, please include that person's name and division in the Office (attach additional sheet(s) if needed):

Were there any witnesses to the incident?

NAME(s) _____

I certify that the information I provided is true and correct to the best of my ability.

Signature: _____

Date: _____

Received by:

Signature: _____

Date: _____

Attorney General's Office

ADA Reasonable Accommodation Policy

OBJECTIVE

The goals of this policy are:

- To ensure compliance with all applicable state and federal laws;
- To establish a written and readily accessible procedure regarding reasonable accommodation, including providing notice of this policy on all job announcements;
- To provide guidance and resources about reasonable accommodations;
- To provide a respectful interactive process to explore reasonable accommodations; and
- To provide a timely and thorough review process for requests for reasonable accommodation.

Policy Statement

The Attorney General's Office must comply with all state and federal laws that prohibit discrimination against qualified individuals with disabilities in all employment practices. The office must provide reasonable accommodations to qualified applicants and employees with disabilities unless to do so would cause an undue hardship or pose a direct threat. Reasonable accommodation must be provided when:

- A qualified applicant with a disability needs an accommodation to have an equal opportunity to compete for a job;
- A qualified employee with a disability needs an accommodation to perform the essential functions of the employee's job; and
- A qualified employee with a disability needs an accommodation to enjoy equal access to benefits and privileges of employment (e.g., trainings, office sponsored events).

Scope

This policy applies to all employees of the Office of the Attorney General.

Definitions

Applicant- A person who expresses interest in employment and satisfies the minimum requirements for application established by the job posting and job description.

Americans with Disabilities Act (ADA) Coordinator- The office is required to appoint an ADA coordinator or designee, depending on office size, to direct and coordinate compliance with Title I of the ADA.

Direct Threat- A significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.

The determination that an individual poses a direct threat shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job.

Essential Functions- Duties so fundamental that the individual cannot do the job without being able to perform them. A function can be essential if:

- The job exists specifically to perform the function(s); or
- There are a limited number of other employees who could perform the function(s); or
- The function(s) is/are specialized and the individual is hired based on the employee's expertise.

Interactive Process- A discussion between the employer and the individual with a disability to determine an effective reasonable accommodation for the individual with a disability. To be interactive, both sides must communicate and exchange information.

Individual with a Disability- An individual who:

- Has a physical, sensory, or mental impairment that substantially limits one or more major life activities; or
- Has a record or history of such impairment; or
- Is regarded as having such impairment.

Qualified Individual with a Disability- An individual who:

- Satisfies the requisite skill, experience, education, and other job-related requirements of the job that the individual holds or desires; and
- Can perform the essential functions of the position with or without reasonable accommodation.

Major Life Activities- May include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Major life activities also include the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Medical Documentation- Information from the requestor's treating provider which is sufficient to enable the employer to determine whether an individual has a disability and whether and what type of reasonable accommodation is needed when the disability or the need for accommodation is not obvious. Medical documentation can be requested using the standardized [Letter Requesting Documentation for Determining ADA Eligibility from a Medical Provider](#), which can be obtained from the Human Resources office.

Reasonable Accommodation- An adjustment or alteration that enables a qualified individual with a disability to apply for a job, perform job duties, or enjoy the benefits and privileges of employment. Reasonable accommodations may include:

- Modifications or adjustments to a job application process to permit a qualified individual with a disability to be considered for a job; or
- Modifications or adjustments to enable a qualified individual with a disability to perform the essential functions of the job; or
- Modifications or adjustments that enable qualified employees with disabilities to enjoy equal benefits and privileges of employment.
- Modifications or adjustments may include acquiring or modifying equipment or devices, modifying training materials, making facilities readily accessible, modifying work schedules, and reassignment to a vacant position.

Reassignment- Reassignment to a vacant position for which an employee is qualified is a “last resort” form of a reasonable accommodation. This type of accommodation must be provided to an employee, who, because of a disability, can no longer perform the essential functions of the position, with or without reasonable accommodation, unless the employer can show that it will be an undue hardship.

Support Person- Any person an individual with a disability identifies to help during the reasonable accommodation process in terms of filling out paperwork, attending meetings during the interactive process to take notes or ask clarifying questions, or to provide emotional support.

Undue Hardship- A specific reasonable accommodation would require significant difficulty or expense. Undue hardship is always determined on a case-by-case basis considering factors that include the nature and cost of the accommodation requested and the impact of the accommodation on the operations of the office. The office is not required to provide accommodations that would impose an undue hardship on the operation of the office.

Exclusions

N/A

Statutory References

- [Rehabilitation Act of 1973, Title 29 USC 701](#)
- [Americans with Disabilities Act \(1990\)](#)
- [29 C.F.R. 1630, Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act](#)

GENERAL STANDARDS AND EXPECTATIONS

Individuals Who May Request a Reasonable Accommodation Include:

- Any qualified applicant with a disability who needs assistance with the job application procedure or the interview or selection process; or
- Any qualified employee with a disability who needs a reasonable accommodation to perform the essential functions of the position; or
- A third party, such as a family member, friend, health professional or other representative, on behalf of a qualified applicant or employee with a disability, when the applicant or employee is unable to make the request for reasonable accommodation. When possible, the office must contact the applicant or employee to confirm that the accommodation is wanted. The applicant or employee has the discretion to accept or reject the proposed accommodation.

The office must abide by the [Minnesota Government Data Practices Act, Chapter 13](#), in obtaining or sharing information related to accommodation requests.

How to Request a Reasonable Accommodation

An office applicant or employee may make a reasonable accommodation request to any or all of the following:

- Immediate manager;
- Affirmative Action Officer/Designee;
- ADA Coordinator;
- Human Resources Office;
- Any manager or employee with whom the applicant has contact during the application, interview and/or selection process.

Timing of the Request

An applicant or employee may request a reasonable accommodation at any time, even if the individual has not previously disclosed the existence of a disability or the need for an accommodation. A request is any communication in which an individual asks or states that he or she needs the office to provide or change something because of a medical condition.

The reasonable accommodation process begins as soon as possible after the request for accommodation is made.

Form of the Request

The applicant or employee is responsible for requesting a reasonable accommodation or providing sufficient notice to the office that an accommodation is needed.

An initial request for accommodation may be made in any manner (e.g., writing, electronically, in person or orally).

The individual requesting an accommodation does not have to use any special words and does not have to mention the ADA or use the phrase "reasonable accommodation" or "disability."

Oral requests should be documented in writing to ensure efficient processing of requests.

Accommodation request forms can be obtained from the Human Resources Director.

When a manager observes or receives information indicating that an employee is experiencing difficulty performing the job due to a medical condition or disability, further inquiry may be required. Managers should consult with the ADA Coordinator for advice on how to proceed.

When an employee needs the same reasonable accommodation on a repeated basis (e.g., the assistance of a sign language interpreter), a written request for accommodation is required the first time only. However, the employee requesting an accommodation must give appropriate advance notice each subsequent time the accommodation is needed. If the accommodation is needed on a regular basis (e.g., a weekly staff meeting), the office must make appropriate arrangements without requiring a request in advance of each occasion.

The Interactive Process

Communication is a priority and encouraged throughout the entire reasonable accommodation process. The interactive process is a collaborative process between the employee and/or applicant and the ADA Coordinator to explore and identify specific reasonable accommodation(s).

The interactive process should begin as soon as possible after a request for reasonable accommodation is made or the need for accommodation becomes known.

The process should ensure a full exchange of relevant information and communication between the individual and the office. An individual may request that the ADA Coordinator, a union representative, or support person be present.

Responsibilities for Processing the Request

As the first step in processing a request for reasonable accommodation, the person who receives the request must promptly forward the request to the appropriate decision maker.

Attorney General

The Attorney General has the ultimate responsibility to ensure compliance with the ADA and this policy and appoint an ADA Coordinator.

ADA Coordinator

The ADA Coordinator is the decision maker for reasonable accommodation requests for all types of requests outside of the managers' authority. The ADA Coordinator will work with the manager to implement the approved reasonable accommodation.

Analysis for Processing Requests

Before approving or denying a request for accommodation, the ADA Coordinator will:

1. Determine if the requestor is a qualified individual with a disability;
2. Determine if the accommodation is needed to:
 - Enable a qualified applicant with a disability to be considered for the position the individual desires;
 - Enable a qualified employee with a disability to perform the essential functions of the position; or
 - Enable a qualified employee with a disability to enjoy equal benefits or privileges of employment as similarly situated employees without disabilities;
3. Determine whether the requested accommodation is reasonable;
4. Determine whether there is a reasonable accommodation that will be effective for the requestor and the office; and
5. Determine whether the reasonable accommodation will impose an undue hardship on the office's operations.

An employee's accommodation preference is always seriously considered, but the office is not obligated to provide the requestor's accommodation of choice, so long as it offers an effective accommodation, or determines that accommodation would cause an undue hardship.

Obtaining Medical Documentation in Connection with a Request for Reasonable Accommodation

In some cases, the disability and need for accommodation will be reasonably evident or already known, for example, where an employee is blind. In these cases, the office will not seek further medical documentation. If a requestor's disability and/or need for reasonable accommodation are not obvious or already known, the ADA Coordinator may require medical information showing that the requestor has a covered disability that requires accommodation. The ADA Coordinator may request medical information in certain other circumstances. For example when:

- The information submitted by the requestor is insufficient to document the disability or the need for the accommodation;
- A question exists as to whether an individual is able to perform the essential functions of the position, with or without reasonable accommodation; or

- A question exists as to whether the employee will pose a direct threat to himself/herself or others.

Where medical documentation is necessary, the ADA Coordinator must make the request and use the Letter Requesting Documentation for Determining ADA Eligibility from a Medical Provider. The ADA Coordinator must also obtain the requestor's completed and signed Authorization for Release of Medical Information before sending the letter to, or otherwise communicating with, the medical provider. The employee may choose not to sign the Authorization. However, if the employee chooses not to sign the Authorization, it is the employee's responsibility to ensure that the office receives the requested medical information.

Only medical documentation specifically related to the employee's request for accommodation and ability to perform the essential functions of the position will be requested. When medical documentation or information is appropriately requested, an employee must provide it in a timely manner, or the office may deny the reasonable accommodation request. The ADA Coordinator must not request medical records; medical records are not appropriate documentation and cannot be accepted. **Managers *must not* request medical information or documentation from an applicant or employee seeking an accommodation.** Such a request will be made by the ADA Coordinator, if appropriate.

Confidentiality Requirements

Medical Information

Medical information obtained in connection with the reasonable accommodation process must be kept confidential. All medical information obtained in connection with such requests must be collected and maintained on separate forms and in separate physical or electronic files from non-medical personnel files and records. Electronic copies of medical information obtained in connection with the reasonable accommodation process must be stored so that access is limited to only the ADA Coordinator. Physical copies of such medical information must be stored in a locked cabinet or office when not in use or unattended. Generally, medical documentation obtained in connection with the reasonable accommodation process should only be reviewed by the ADA Coordinator.

The ADA Coordinator may disclose medical information obtained in connection with the reasonable accommodation process to the following:

- Deputies, managers or HR staff who have a need to know may be told about the necessary work restrictions and about the accommodations necessary to perform the employee's duties. However, information about the employee's medical condition should only be disclosed if strictly necessary, such as for safety reasons;
- First aid and safety personnel may be informed, when appropriate, if the employee may require emergency treatment or assistance in an emergency evacuation;
- To consult with the State ADA Coordinator or Employment Law Counsel at MMB, or to seek advice from within the Attorney General's Office about accommodation requests, denial of accommodation requests or purchasing of specific assistive technology or other resources; or

- Government officials assigned to investigate compliance with the ADA.

Whenever medical information is appropriately disclosed as described above, the recipients of the information must comply with all confidentiality requirements.

Accommodation Information

The fact that an individual is receiving an accommodation because of a disability is confidential and may only be shared with those individuals who have a need to know for purposes of implementing the accommodation, such as the requestor's manager and the ADA Coordinator.

General Information

General summary information regarding an employee's or applicant's status as an individual with a disability may be collected by the office's ADA Coordinator to maintain records and evaluate and report on the office's performance in hiring, retention, and processing reasonable accommodation requests.

Approval of Requests for Reasonable Accommodation

As soon as the ADA Coordinator determines that a reasonable accommodation will be provided, the ADA Coordinator will process the request and provide the reasonable accommodation in as short of a timeframe as possible. The time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information. If an approved accommodation cannot be provided within a reasonable time, the decision maker will inform the requestor of the status of the request before the end of 30 days. Where feasible, if there is a delay in providing the request, temporary measures will be taken to provide assistance.

Once approved, the reasonable accommodation should be documented for record keeping purposes and the records maintained by the ADA Coordinator.

Funding for Reasonable Accommodations

Funding must be approved for accommodations that do not cause an undue hardship.

Procedures for Reassignment as a Reasonable Accommodation

Reassignment to a vacant position is an accommodation that must be considered if there are no effective reasonable accommodations that would enable the employee to perform the essential functions of his/her current job, or if all other reasonable accommodations would impose an undue hardship.

The ADA Coordinator will work with appropriate staff and the requestor to identify appropriate vacant positions within the office for which the employee may be qualified and can perform the essential functions of the vacant position, with or without reasonable accommodation. Vacant positions which are equivalent to the employee's current job in terms of pay, status, and other relevant factors will be considered first. If there are none, the office will consider vacant lower level

positions for which the individual is qualified. The EEOC recommends the consideration of positions that are currently vacant or will be coming open within at least the next 60 days.

Denial of Requests for Reasonable Accommodation

The ADA Coordinator must be contacted for assistance and guidance prior to denying any request for reasonable accommodation. The office may deny a request for reasonable accommodation where:

- The individual is not a qualified individual with a disability;
- The reasonable accommodation results in undue hardship or the individual poses a direct threat to the individual or others. Undue hardship and direct threat are determined on a case-by-case basis with guidance from the ADA Coordinator; or
- Where no reasonable accommodation, including reassignment to a vacant position, will enable the employee to perform all the essential functions of the job.

The explanation for denial must be provided to the requestor in writing. The explanation should be written in plain language and clearly state the specific reasons for denial. Where the decision maker has denied a specific requested accommodation, but has offered a different accommodation in its place, the decision letter should explain both the reasons for denying the accommodation requested and the reasons that the accommodation being offered will be effective.

Consideration of Undue Hardship

Determination of undue hardship is made on a case-by-case basis and only after consultation with the ADA Coordinator. In determining whether granting a reasonable accommodation will cause an undue hardship, the office considers factors such as the nature and cost of the accommodation in relationship to the size and resources of the office and the impact the accommodation will have on the operations of the office.

Determining Direct Threat

The determination that an individual poses a “direct threat,” (i.e., a significant risk of substantial harm to the health or safety of the individual or others) which cannot be eliminated or reduced by a reasonable accommodation, must be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job with or without reasonable accommodation. A determination that an individual poses a direct threat cannot be based on fears, misconceptions, or stereotypes about the individual's disability. Instead, the office must make a reasonable medical judgment, relying on the most current medical knowledge and the best available objective evidence.

In determining whether an individual poses a direct threat, the factors to be considered include:

- Duration of the risk;
- Nature and severity of the potential harm;
- Likelihood that the potential harm will occur; and

- Imminence of the potential harm.

Appeals Process in the Event of Denial

In addition to providing the requestor with the reasons for denial of a request for reasonable accommodation, the office must designate a process for review when an applicant or employee chooses to appeal the denial of a reasonable accommodation request. This process:

- Must include review by a Deputy Attorney General;
- May include review by the State ADA Coordinator; and/or
- Must inform the requestor of the statutory right to file a charge with the Equal Employment Opportunity Commission or the Minnesota Department of Human Rights.

Information Tracking and Records Retention

The office will track reasonable accommodations requested and report once a year by September 1st to MMB the number and types of accommodations requested, approved, denied and other relevant information.

The office will retain reasonable accommodation documentation according to the records retention schedule, but in all cases for at least one year from the date the record is made or the personnel action involved is taken, whichever occurs later. 29 C.F.R. § 1602.14.

Please review the following forms:

- [Employee/Applicant Request for ADA Reasonable Accommodation](#)
- [Authorization of Release of Medical Information for ADA Reasonable Accommodations](#)
- [Letter Requesting Documentation for Determining ADA Eligibility from a Medical Provider](#)

REFERENCES

- [U.S. Equal Employment Opportunity Commission](#), *Enforcement Guidance*.
- Pre-employment Disability-Related Questions and Medical Examinations at 5, 6-8, 20, 21-22, 8 FEP Manual (BNA) 405:7191, 7192-94, 7201 (1995).
- Workers' Compensation and the ADA at 15-20, 8 FEP Manual (BNA) 405:7391, 7398-7401 (1996).
- The Americans with Disabilities Act and Psychiatric Disabilities at 19-28, 8 FEP Manual (BNA) 405:7461, 7470-76 (1997).
- Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act (October 17, 2002), (clarifies the rights and responsibilities of employers and individuals with disabilities regarding reasonable accommodation and undue hardship).

- Disability-Related Inquiries and Medical Examinations of Employees (explains when it is permissible for employers to make disability-related inquiries or require medical examinations of employees).
- Fact Sheet on the Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964 at 6-9, 8 FEP Manual (BNA) 4055:7371.

The [Genetic Information Nondiscrimination Act \(GINA\) of 2008](#) and [Minnesota Statute section 181.974](#) prohibit employers from using genetic information when making decisions regarding employment.

[Minnesota Human Rights Act \(MHRA\)](#) prohibits employers from treating people differently in employment because of their race, color, creed, religion, national origin, sex, marital status, familial status, disability, status with regard to public assistance, age, sexual orientation, or local human rights commission activity. The MHRA requires an employer to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, except when such accommodation would cause undue hardship or where the individual poses a direct threat to the health or safety of the individual or others. The MHRA prohibits requesting or requiring information about an individual's disability prior to a conditional offer of employment.

The [Family and Medical Leave Act](#) is a federal law requiring covered employers to provide eligible employees twelve weeks of job-protected, unpaid leave for qualified medical and family reasons.

[Executive Order 14-14, Providing for Increased Participation of Individuals with Disabilities in State Employment](#), directs agencies to make efforts to hire more individuals with disabilities and report on progress.

CONTACTS

Equal Opportunity Office at Minnesota Management and Budget via ADA.MMB@state.mn.us



STATE OF MINNESOTA – OFFICE OF THE ATTORNEY GENERAL

EMPLOYEE/APPLICANT REQUEST FOR

ADA REASONABLE ACCOMMODATION FORM

The State of Minnesota is committed to complying with the Americans with Disabilities Act (“ADA”) and the Minnesota Human Rights Act (“MHRA”). To be eligible for an ADA accommodation, you must be 1) qualified to perform the essential functions of your position and 2) have a disability that limits a major life activity or function. The ADA Coordinator/Designee will review each request on an individualized case-by-case basis to determine whether or not an accommodation can be made.

Employee/Applicant Name:	Job Title:
Work Location:	Phone Number:

Data Privacy Statement: This information may be used by your office’s human resources representative, ADA Coordinator or designee, office legal counsel, or any other individual who is authorized by the office to receive medical information for purposes of providing reasonable accommodations under the ADA and MHRA. This information is necessary to determine whether you have a disability as defined by the ADA or MHRA, and to determine whether any reasonable accommodation can be made. The provision of this information is strictly voluntary; however, if you refuse to provide it, the office may refuse to provide a reasonable accommodation.

Questions to clarify accommodation requested.

1. What specific accommodation are you requesting?

2. If you are not sure what accommodation is needed, do you have any suggestions about what options we can explore.
 - a. If yes, please explain.

Questions to document the reason for the accommodation request *(please attach additional pages if necessary).*

1. What job function, if any, are you having difficulty performing?
2. What employment benefit, if any, are you having difficulty accessing?
3. What limitation as result of your physical or mental impairment is interfering with your ability to perform your job or access an employment benefit?
4. If you are requesting a specific accommodation, how will that accommodation be effective in allowing you to perform the functions of your job?

Information Pertaining to Medical Documentation

In the context of assessing an accommodation request, medical documentation may be needed to determine if the employee has a disability covered by the ADA and to assist in identifying an effective accommodation.

The ADA Coordinator is tasked with collecting necessary medical documentation. In the event that medical documentation is needed, the employee will be provided with the appropriate forms to submit to their medical provider. The employee has the responsibility to ensure that the medical provider follows through on requests for medical information.

This authorization does not cover, and the information to be disclosed should not contain, genetic information. "Genetic Information" includes: Information about an individual's genetic tests; information about genetic tests of an individual's family members; information about the manifestation of a disease or disorder in an individual's family members (family medical history); an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; and genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

Employee/Applicant Signature:	Date:
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Evacuation Procedure for Individuals with Disabilities or Otherwise in Need of Assistance

A copy of the office's Safety Procedures and Evacuation Plan manual can be found on its intranet website. Evacuation plans are also prominently displayed at each office location on bulletin boards and in each conference room. All new employees receive a copy of the manual upon hire, and staff are reminded periodically to review both the plans and the manual. Updates are issued as needed. All office locations work closely with the management companies of those buildings so that all staff are aware of and follow building evacuation procedures.

The manual provides for aiding staff who require assistance during an evacuation of the premises. Physical assistance monitors have been assigned at each location and on each floor, if applicable, to assist individuals with disabilities during a weather emergency or evacuation. These monitors are listed, and are routinely updated as needed, in the manual. All receptionists have been notified of the need to be aware of visitors who might require assistance during an evacuation and staff have been advised of the possibility of this need in the manual.

- Everyone has a responsibility to develop their own personal emergency evacuation plan, including individuals with disabilities or individuals who will need assistance during evacuation. The ADA Coordinator will work to develop a plan and consult the appropriate building personnel. To request assistance in setting up a personal evacuation plan, staff should contact: Sue Vrooman, HR Director, (651) 757-1057, sue.vrooman@ag.state.mn.us; or
- K.C. Moua, Personnel Assistant, (651) 757-1279, kc.moua@ag.state.mn.us.

Evacuation Options:

Individuals with disabilities have the following evacuation options:

- **Horizontal evacuation:** Using building exits to the outside ground level or going into unaffected wings of multi-building complexes;
- **Stairway evacuation:** Using steps to reach ground level exits from building;
- **Shelter in place:** Unless danger is imminent, remain in a room with an exterior window, a telephone, and a solid or fire resistant door. If the individual requiring special evacuation assistance remains in place, they should dial 911 immediately and report their location to emergency services, who will in turn relay that information to on-site responders. The shelter in place approach may be more appropriate for sprinkler protected buildings where an area of refuge is not nearby or available. It may be more appropriate for an individual who is alone when the alarm sounds;

- **Area of rescue assistance:** Identified areas that can be used as a means of egress for individuals with disabilities. These areas, located on floors above or below the building's exits, can be used by individuals with disabilities until rescue can be facilitated by emergency responders.

Evacuation Procedures for Individuals with Mobility, Hearing, or Visual Disabilities:

Individuals with disabilities should follow the following procedures:

- **Mobility disabilities (individuals who use wheelchairs or other personal mobility devices):** Individuals using wheelchairs should be accompanied to an area of rescue assistance by a designated physical assistance monitor, or shelter in place when the alarm sounds. Physical assistance monitors will inform building security staff of individuals awaiting rescue in the designated rescue area. Security staff will respond to each of the areas of rescue assistance every time a building evacuation is initiated to identify the individuals in these areas and notify emergency responders as to how many individuals need assistance to safely evacuate.
- **Mobility disabilities (individuals who do not use wheelchairs or other personal mobility devices):** Individuals with mobility disabilities, who are able to walk independently, may be able to negotiate stairs in an emergency with minor assistance. If danger is imminent, the individual should wait until the heavy traffic has cleared before attempting the stairs. If there is no immediate danger (detectable smoke, fire, or unusual odor), the individual with a disability may choose to wait at the area of rescue assistance until emergency responders arrive to assist them. The physical assistance monitor should offer assistance and, if accepted, accompany the individual with the disability through the evacuation route.
- **Hearing disabilities:** The buildings are equipped with fire alarm horns/strobes that sound the alarm and flash strobe lights. The strobe lights are intended for individuals who are deaf and/or hard of hearing. Individuals with hearing disabilities may not notice or hear emergency alarms and will need to be alerted of emergency situations. The physical assistance monitor should offer assistance and, if accepted, accompany the individual with the disability through the evacuation route.
- **Visual disabilities:** The buildings are equipped with fire alarm horn/strobes that sound the alarm and flash strobe lights. The horn will alert individuals who are blind or have visual disabilities of the need to evacuate. Most individuals with visual disabilities will be familiar with their immediate surroundings and frequently traveled routes. Since the emergency evacuation route is likely different from the common traveled route, individuals with visual disabilities may need assistance in evacuating. The physical assistance monitor should offer assistance and, if accepted, accompany the individual with the disability through the evacuation route.

Severe Weather Evacuation Options:

Individuals in need of assistance during an evacuation have these evacuation options based on their location in their building:

- **Horizontal evacuation:** If located on the ground or basement floor, severe weather shelter areas are located throughout each floor;
- **Elevator evacuation:** If there are no safe areas above the ground floor, the elevator may be used to evacuate to the ground or basement levels; and/or
- **Shelter in Place:** Seeking shelter in a designated severe weather shelter and remaining there until the all clear is used.

Attorney General's Office

JOB CATEGORY AVAILABILITY/UTILIZATION/UNDERUTILIZATION ANALYSIS & ANNUAL GOALS

Worksheet for comparing incumbency to availability and setting goals to correct underutilization.

WOMEN									
Job Categories	Total Employees in Job Group	Total Number of Women in Group	% of Women in the Group	Availability %	Availability Number	AAP 2018-2020 Number Underutilized	AAP 2016-2018 Number Underutilized	Improved, Not Improved, Same	Numerical Difference in the Two Plans
Officials/Administrators	30	15	50.00%	7.45%	2	<10	<10	Improved	
Professionals	109	41	37.61%	32.48%	35	<10	<10	Improved	
Paraprofessionals	108	71	65.74%	37.11%	40	<10	<10	Improved	
Office/Clerical	77	75	97.40%	51.31%	40	<10	<10	Improved	
Totals	324	202	62.35%						

MINORITIES									
Job Categories	Total Employees in Job Group	Total Number of Minorities in Group	% of Minorities in the Group	Availability %	Availability Number	AAP 2018-2020 Number Underutilized	AAP 2016-2018 Number Underutilized	Improved, Not Improved, Same	Numerical Difference in the Two Plans
Officials/Administrators	30	1	3.33%	0.88%	0	<10	<10	Improved	
Professionals	109	13	11.93%	7.04%	8	<10	<10	Improved	
Paraprofessionals	108	15	13.89%	7.30%	8	<10	<10	Improved	
Office/Clerical	77	10	12.99%	8.28%	6	<10	<10	Improved	
Totals	324	39	12.04%						

INDIVIDUALS WITH DISABILITIES									
Job Categories	Total Employees in Job Group	Total Number of Individ./ with Disabilities in Group	% of Individ. w/ Disabilities in the Group	Availability %	Availability Number	AAP 2018-2020 Number Underutilized	AAP 2016-2018 Number Underutilized	Improved, Not Improved, Same	Numerical Difference in the Two Plans
Officials/Administrators	30	5	16.67%	7.00%	2	<10	<10	Not Improved	
Professionals	109	8	7.34%	7.00%	8	<10	<10	Not Improved	
Paraprofessionals	108	13	12.04%	7.00%	8	<10	<10	Same	
Office/Clerical	77	15	19.48%	7.00%	5	<10	<10	Improved	
Totals	324	41	12.65%						

Source: American Fact Finder, operated by the U.S. Census Bureau. Labor Statistics for women and minorities compiled from the American Community Survey (2006-2010)., released in March of 2013. Statistics for individuals with disabilities are taken from OFCCP (Office of Federal Contract Compliance Programs) and are based upon data derived from the American Community Surveys (2006-2010).

**Attorney General's Office
SEPARATION ANALYSIS**

Worksheet for conducting separation analysis of protected group members as total separations and in each job category.

TOTAL SEPARATIONS							
Types of Separation	Total Number	Total Percentage	Total Number of Women	Percentage of Women	Total Number of Minorities	Percentage of Minorities	Percentage of Indiv w/Disabilities
Dismissal or Non-Certification	0	0.00%	0	0.00%	0	0.00%	0.00%
Resignations	59	71.08%	31	52.54%	11	18.64%	5.08%
Retirement	22	26.51%	13	59.09%	2	9.09%	18.18%
Termination without Rights	2	2.41%	0	0.00%	0	0.00%	0.00%
Total Separations	83	100.00%	44	53.01%	13	15.66%	8.43%

OFFICIALS/ADMINISTRATORS							
Types of Separation	Total Number	Total Percentage	Total Number of Women	Percentage of Women	Total Number of Minorities	Percentage of Minorities	Percentage of Indiv w/Disabilities
Dismissal or Non-Certification	0	0.00%	0	0.00%	0	0.00%	0.00%
Resignations	1	25.00%	0	0.00%	0	0.00%	0.00%
Retirement	3	75.00%	1	33.33%	0	0.00%	66.67%
Termination without Rights	0	0.00%	0	0.00%	0	0.00%	0.00%
Total Separations	4	100.00%	1	25.00%	0	0.00%	50.00%

PROFESSIONALS							
Types of Separation	Total Number	Total Percentage	Total Number of Women	Percentage of Women	Total Number of Minorities	Percentage of Minorities	Percentage of Indiv w/Disabilities
Dismissal or Non-Certification	0	0.00%	0	0.00%	0	0.00%	0.00%
Resignations	25	73.53%	10	40.00%	3	12.00%	0.00%
Retirement	8	23.53%	3	37.50%	0	0.00%	25.00%
Termination without Rights	1	2.94%	0	0.00%	0	0.00%	0.00%
Total Separations	34	100.00%	13	38.24%	3	8.82%	5.88%

**Attorney General's Office
SEPARATION ANALYSIS**

Worksheet for conducting separation analysis of protected group members as total separations and in each job category.

PARAPROFESSIONALS									
Types of Separation	Total Number	Total Percentage	Total Number of Women	Percentage of Women	Total Number of Minorities	Percentage of Minorities	Total Number of Indiv w/Disabilities	Percentage of Indiv w/Disabilities	
Dismissal or Non-Certification	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
Resignations	28	80.00%	16	57.14%	7	25.00%	2	7.14%	
Retirement	6	17.14%	4	66.67%	1	16.67%	0	0.00%	
Termination without Rights	1	2.86%	0	0.00%	0	0.00%	0	0.00%	
Total Separations	35	100.00%	20	57.14%	8	22.86%	2	5.71%	

OFFICE/CLERICAL									
Types of Separation	Total Number	Total Percentage	Total Number of Women	Percentage of Women	Total Number of Minorities	Percentage of Minorities	Total Number of Indiv w/Disabilities	Percentage of Indiv w/Disabilities	
Dismissal or Non-Certification	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
Resignations	5	50.00%	5	100.00%	1	20.00%	1	20.00%	
Retirement	5	50.00%	5	100.00%	1	20.00%	0	0.00%	
Termination without Rights	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
Total Separations	10	100.00%	10	100.00%	2	20.00%	1	10.00%	